IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.1625 OF 1998

Shri Gopal Ramchandra Potdar,)
Hindu Adult. Indian inhabitant,)
R/o.33-D, Pathare Bldg. 3rd Floor,)
Kennedy Bridge, Opera House,)
Girgaum, Mumbai-400 004.)..PETITIONER.

Versus

1. The State of Maharashtra,)
through the Secretary, Housing)
and Special Assistance Department,)
Mantralaya, Mumbai - 400 032.)

2. Additional Collector and)
Competent Authority (Urban Land)
Ceiling), Greater Mumbai, 10th)
Floor, New Administrative Building)
Opp.Mantralaya, Mumbai - 400 032.) ..RESPONDENTS.

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Mr.Sanjay Prabhu i/b. N.V.BAndiwadekar, Advocate for the Petitioner.
Mr.P.K.Jadhav, A.G.P. for the Respondents-State.

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CORAM : **DR.S.RADHAKRISHNAN AND SMT.V.K.TAHILRAMANI,JJ.**

DATED : **NOVEMBER 16, 2006.**

ORAL ORDER :(PER SMT.V.K.TAHILRAMANI,J.)

1. The petitioner who was a State Government employee was allotted a flat in the discretionary quota of the Chief Minister, as per his request

vide application dated 17.3.1988. By the sanction order dated 5.4.1988, the petitioner was informed that flat upto 500 sq.ft. at Mumbai from the 10% discretionary quota of Government was allotted to him. However, by an allotment order dated 22.8.1995 the petitioner was allotted Flat of 250 sq.ft. being Flat No.66 on the 6th floor, B-Wing of Lords Apartment at village Valpai in the housing scheme for economically backward class under the Urban Land (Ceiling and Holdings) Act.

2. In this Petition filed under Article 226 of the Constitution of India, the petitioner seeks an order to direct the State Government to allot a residential flat admeasuring 500 sq.ft. within the limits of Greater Mumbai Urban Agglomeration area as per the original sanction order dated 5.4.1988.

3. There is no doubt that the petitioner’s application was for the allotment of a flat from the 10% discretionary quota of the State Government and that application was not by way of exercising a vested right under the law or by way

of his service condition. Infact, the petitioner was seeking favour from the State Government. Considering his request, by sanction order dated 5.4.1988 the petitioner was informed that a decision was taken to allot him a flat "upto" 500 sq.ft. at Mumbai. The word used was "upto" 500 sq.ft. and not "of 500 sq.ft.". The Government did not make any commitment to the petitioner to allot him a flat of 500 sq.ft.. In any case, the allotment order dated 5.4.1988 cannot be treated as a promise to allot him a flat of 500 sq.ft. and, therefore, the doctrine of *promissory estoppel* would not operate in his case.

4. As noted earlier, the petitioner has no vested right to get a flat of 500 sq.ft. and the allotment of a flat from the discretionary quota from the State Government was a concession. Moreover, pursuant to the sanction order dated 5.4.1988 the petitioner was allotted a flat admeasuring 250 sq.ft.. No fault can be found with the decision of the State Government. In these circumstances, the prayer of the petitioner cannot be entertained so as to issue a writ or an

order in the nature of writ of *mandamus* for allotment of a flat of 500 sq.ft. in his favour.

5. During the course of arguments, Mr.Prabhu the learned counsel for the petitioner made an alternate prayer for direction to the Government to allot to the petitioner the flat of 250 sq. ft. which had already been allotted to him as per allotment letter dated 22.8.1995. However, it is pertinent to note that the petitioner himself by his letter dated 6.9.1995 has informed the Secretary, Housing and Special Assistance Department that he did not want the said Flat. Hence, today after eleven years, this prayer cannot be entertained by us.

6. In the premises, this Petition fails and the same is hereby dismissed. Rule stands discharged.

[DR.S.RADHAKRISHNAN,J.]

[SMT.V.K.TAHILRAMANI,J.]